

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MATTHEW RYAN FINKENAUER,

Civil No. 06-2559 (PAM/JSM)

Plaintiff,

v.

REPORT AND RECOMMENDATION

HOMEcomings FINANCIAL,
CREVECOR MORTGAGE INC., and
CLEAR WATER TITLE,

Defendants.

Plaintiff commenced this action on June 21, 2006, by filing a self-styled complaint, and an application seeking leave to proceed in forma pauperis ("IFP"). (Docket Nos. 1 and 2.) The Court previously examined Plaintiff's submissions and determined that his complaint failed to state an actionable claim for relief. The Court therefore entered an order, dated July 5, 2006, (Docket No. 4), which informed Plaintiff that his IFP Application would not be granted "at this time." The order granted Plaintiff leave to file an amended complaint, and expressly advised him that if he did not file a new pleading within thirty (30) days, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

Plaintiff subsequently requested an extension of the deadline for filing his amended complaint, and that request was granted by the Court's order of August 10, 2006. (Docket No. 6.) That second order required Petitioner to file his amended complaint by no later than September 5, 2006, and reiterated that if he failed to do so, the Court would recommend summary dismissal.

The extended deadline for filing an amended complaint has now passed, and Plaintiff still has not complied with the Court's initial order of July 5, 2006. Plaintiff has now had nearly three months to file a new pleading, and he still has not done so. Therefore, it is now recommended, in accordance with the Court's two prior orders in this matter, that Plaintiff be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's Application To Proceed In Forma Pauperis, (Docket No. 2), be **DENIED**;
and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: September 22, 2006

s/ Janie S. Mayeron
JANIE S. MAYERON
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 10, 2006**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.